

# Senate File 549 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1079)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to judicial branch practices and procedures,  
2 including distribution of court revenue to cities and  
3 counties, ordering hearings for forcible entry and detainer  
4 actions, and forfeiting bail for failure to appear.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 1376SV 82  
7 jm/je/5

PAG LIN

1 1 Section 1. Section 331.653, subsection 61, Code 2007, is  
1 2 amended by striking the subsection.  
1 3 Sec. 2. Section 602.8102, subsection 131, Code 2007, is  
1 4 amended by striking the subsection.  
1 5 Sec. 3. Section 602.8107, subsection 4, unnumbered  
1 6 paragraph 1, Code 2007, is amended to read as follows:  
1 7 All fines, penalties, court costs, fees, surcharges, and  
1 8 restitution for court-appointed attorney fees or for expenses  
1 9 of a public defender which are deemed delinquent by the clerk  
1 10 pursuant to subsection 3 may be collected by the county  
1 11 attorney or the county attorney's designee. Thirty-five  
1 12 percent of the amounts collected by the county attorney or the  
1 13 person procured or designated by the county attorney shall be  
1 14 deposited in the general fund of the county if the county  
1 15 attorney has filed the notice required in section 331.756,  
1 16 subsection 5, unless the county attorney has discontinued  
1 17 collection efforts on a particular delinquent amount. Up to  
1 18 one million two hundred thousand dollars of the remainder  
1 19 shall be paid each fiscal year to the clerks for distribution  
1 20 under section 602.8108. If the threshold amount of one  
1 21 million two hundred thousand dollars has been distributed  
1 22 during the fiscal year on or before June 1 under section  
1 23 602.8108, the remainder shall be distributed as provided in  
1 24 subsection 5. The state court administrator shall notify the  
1 25 clerks that the threshold amount has been distributed under  
1 26 section 602.8108, and that the distribution of any additional  
1 27 moneys collected by the county attorney shall be as provided  
1 28 in subsection 5.  
1 29 Sec. 4. Section 602.8109, subsection 2, unnumbered  
1 30 paragraph 1, Code 2007, is amended to read as follows:  
1 31 ~~No later than the fifteenth day of each calendar month the~~  
1 32 ~~The clerk of the district court shall deliver a statement to~~  
1 33 ~~the county auditor a statement no later than the fifteenth day~~  
1 34 ~~of each month~~ disclosing all of the following:  
1 35 Sec. 5. Section 602.8109, subsections 5 and 6, Code 2007,  
2 1 are amended by striking the subsections and inserting in lieu  
2 2 thereof the following:  
2 3 5. The clerk of the district court shall deliver a  
2 4 statement to the city clerk no later than the fifteenth day of  
2 5 each month disclosing all of the following:  
2 6 a. The specific amounts of statutory fees and costs that  
2 7 are payable by the city to the clerk of the district court for  
2 8 services rendered by the clerk or other state officers or  
2 9 employees during the preceding month in connection with each  
2 10 civil or criminal action, and the total of all such fees and  
2 11 costs.  
2 12 b. Any amounts collected by the clerk of the district  
2 13 court during the preceding month as costs in an action when  
2 14 such amounts are payable by law to the city as reimbursement  
2 15 for costs incurred by the city in connection with a civil or  
2 16 criminal action, and the total of all such amounts.

2 17 6. If the amount owed by the city under subsection 5,  
2 18 paragraph "a", for a calendar month is greater than the amount  
2 19 due to the city under subsection 5, paragraph "b", for that  
2 20 month, the city shall remit the difference to the clerk of the  
2 21 district court no later than the last of the month in which  
2 22 the statement under subsection 5 is received.  
2 23 Sec. 6. Section 602.8109, subsection 7, Code 2007, is  
2 24 amended to read as follows:  
2 25 7. If the amount due the city under subsection 5,  
2 26 paragraph "b", for a calendar month is greater than the amount  
2 27 owed by the city under subsection 5, paragraph "a", for that  
2 28 month, the clerk of the district court shall remit the  
2 29 difference to the city clerk no later than the last day of the  
2 30 month in which the statement under subsection 5 is delivered.  
2 31 8. Amounts not paid as required under subsection 3, 4, 5,  
2 32 ~~or 6, or 7~~ shall bear interest for each day of delinquency at  
2 33 the rate in effect as of the day of delinquency for time  
2 34 deposits of public funds for eighty-nine days, as established  
2 35 under section 12C.6.  
3 1 Sec. 7. Section 648.5, Code 2007, is amended to read as  
3 2 follows:  
3 3 648.5 JURISDICTION == HEARING == PERSONAL SERVICE.  
3 4 The court within the county shall have jurisdiction of  
3 5 actions for forcible entry and detainer. They shall be tried  
3 6 as equitable actions. Unless commenced as a small claim, a  
3 7 petition shall be presented to a district court judge. Upon  
3 8 receipt of the petition, the court shall order a hearing which  
3 9 shall not be later than seven days from the date of the order  
3 10 unless the plaintiff consents to a later date. Personal  
3 11 service shall be made upon the defendant not less than three  
3 12 days prior to the hearing. In the event that personal service  
3 13 cannot be completed in time to give the defendant the minimum  
3 14 notice required by this section, the court may set a new  
3 15 hearing date. A default cannot be made upon a defendant  
3 16 unless the three days' notice has been given.  
3 17 Sec. 8. Section 811.6, Code 2007, is amended to read as  
3 18 follows:  
3 19 811.6 FORFEITURE OF BAIL.  
3 20 ~~1-~~ A defendant released pursuant to this chapter shall  
3 21 appear at arraignment, trial, judgment, or such other  
3 22 proceedings where the defendant's appearance is required. If  
3 23 the defendant fails to appear at the time and place when the  
3 24 defendant's personal appearance is lawfully required, or to  
3 25 surrender in execution of the judgment, the court must direct  
3 26 an entry of the failure to be made of record, and the  
3 27 undertaking of the defendant's bail, or the money deposited,  
3 28 is ~~thereupon~~ forfeited. As a part of the entry, except as  
3 29 provided in rule of criminal procedure 2.72, the court shall  
3 30 direct the clerk of the district court of the county to give  
3 31 ten days' notice in writing to the defendant and the  
3 32 defendant's sureties to appear and show cause, if any, why  
3 33 judgment should not be entered for the amount of bail. If  
3 34 such appearance is not made, judgment shall be entered by the  
3 35 court. If appearance is made, the court shall set the case  
4 1 down for immediate hearing as an ordinary action.  
4 2 ~~2. Where a forfeiture and judgment have been entered as~~  
4 3 ~~provided in this section, and the amount of the judgment has~~  
4 4 ~~been paid to the clerk, the clerk shall hold the same as funds~~  
4 5 ~~of the clerk's office for a period of sixty days from the date~~  
4 6 ~~of judgment.~~  
4 7 ~~3. The court may, upon application, set aside such~~  
4 8 ~~judgment if, within sixty days from the date thereof, the~~  
4 9 ~~defendant shall voluntarily surrender to the sheriff of the~~  
4 10 ~~county, or the defendant's sureties shall, at their own~~  
4 11 ~~expense, deliver the defendant to the custody of the sheriff.~~  
4 12 ~~Such judgment shall not be set aside, however, unless as a~~  
4 13 ~~condition precedent thereto, the defendant and the defendant's~~  
4 14 ~~sureties shall have paid all costs and expenses incurred in~~  
4 15 ~~connection therewith.~~  
4 16 EXPLANATION  
4 17 This bill relates to judicial branch practices and  
4 18 procedures, including distribution of court revenue to cities  
4 19 and counties, ordering hearings for forcible entry and  
4 20 detainer actions, and forfeiting bail for failure to appear.  
4 21 The bill strikes a provision requiring the clerk of the  
4 22 district court to retain, for 60 days, forfeited bail money  
4 23 when a criminal defendant fails to appear at a required court  
4 24 appearance. The bill also strikes provisions permitting the  
4 25 court to set aside a judgment forfeiting bail if the defendant  
4 26 voluntarily surrenders to the county sheriff within 60 days  
4 27 from the date the judgment forfeiting bail was entered and

4 28 requiring the sheriff to perform related duties.  
4 29 Under the bill, if the county attorneys' combined  
4 30 collection of delinquent fines, after the initial distribution  
4 31 to the counties' general funds of 35 percent of the amount  
4 32 collected, reaches the threshold amount of \$1.2 million in  
4 33 Code section 602.8107, subsection 4, on or before June 1 of  
4 34 the fiscal year, the county attorneys qualify to keep a  
4 35 percentage of the delinquent fines collected as provided in  
5 1 Code section 602.8107, subsection 5. Under current law, if  
5 2 the threshold amount of \$1.2 million is reached the county  
5 3 attorneys may qualify to keep a percentage of the delinquent  
5 4 fines collected as provided in Code section 602.8107,  
5 5 subsection 5, through the end of the fiscal year.  
5 6 The bill modifies the manner in which court revenue is  
5 7 reconciled between a city and the clerk of the district court.  
5 8 The bill permits the clerk of the district court to offset any  
5 9 amounts owed by the city to the clerk prior to distributing  
5 10 any amounts owed to the city. The bill also permits the city  
5 11 to offset any amounts owed by the clerk to the city prior to  
5 12 distributing any amounts owed the clerk. Current law permits  
5 13 the clerk of the district court and the county to offset  
5 14 amounts owed prior to distribution in Code section 602.8109.  
5 15 Under the bill, the supreme court may prescribe rules  
5 16 establishing procedures to implement the modifications  
5 17 relating to a delinquent report or inventory.  
5 18 Under the bill, a forcible entry and detainer action shall  
5 19 be heard within seven days of being filed unless the plaintiff  
5 20 (landlord) consents to a later date.  
5 21 LSB 1376SV 82  
5 22 jm:nh/je/5.1